

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KATHERINE GAY <i>Plaintiff</i>	:	CIVIL ACTION
	:	
	:	
v.	:	NO. 18-2880
	:	
THE CHILDREN’S HOSPITAL OF PHILADELPHIA, et al. <i>Defendants</i>	:	
	:	
	:	

ORDER

AND NOW, this 15th day of May 2023, upon consideration of Defendants’ *letter request to allow remote trial testimony of Defendant Dr. Leela Morrow*, [ECF 254], and Plaintiff’s response in opposition thereto, [ECF 257], it is hereby **ORDERED** that Defendants’ request is **DENIED**.¹

BY THE COURT:

/s/ Nitza I. Quiñones Alejandro
NITZA I. QUIÑONES ALEJANDRO
Judge, United States District Court

¹ Defendants seek leave to present the remote, live video testimony of Defendant Dr. Leela Morrow due *solely* to a pre-planned, out-of-state trip during the scheduled trial. Plaintiff opposes the request. Federal Rule of Civil Procedure (“Rule”) 43 allows for remote, live video trial testimony under certain circumstances. Specifically, the Rule provides:

At trial, the witnesses’ testimony must be taken in open court unless a federal statute, the Federal Rules of Evidence, these rules, or other rules adopted by the Supreme Court provide otherwise. For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.

Fed. R. Civ. P. 43(a). The advisory committee notes that “a party who could reasonably foresee the circumstances offered to justify transmission of testimony will have special difficulty in showing good cause and the compelling nature of the circumstances.” *Id.*, Advisory Committee Notes 1996.

Here, Defendants offer Dr. Morrow’s “pre-planned trip” as the sole basis for their request to present her trial testimony by remote means. Notably, however, the current trial dates were selected by counsel following Defendants’ motion to reschedule the trial, which was previously scheduled to commence on March 31, 2023. Under these circumstances, this Court finds a lack of good cause in compelling circumstances. Accordingly, Defendants’ request is denied.